

February 19, 2014

Statement of the Connecticut Council on Freedom of Information in Support of House Bill No. 5124, *An Act Concerning the Preservation of Historical Records and Access to Restricted records in the State Archives*.

Senator Musto, Representative Jutila and members of the Government Administration and Elections Committee:

I am Claude Albert, legislative chair of the Connecticut Council on Freedom of Information. CCFOI is an organization that has been committed to furthering government transparency and accountability for more than half a century. We strongly support House Bill No. 5124, *An Act Concerning the Preservation of Historical Records and Access to Restricted records in the State Archives*.

This bill, proposed by State Librarian Kendall Wiggin, provides a balanced and reasonable time limit for access to historical medical and other records. It would put Connecticut in harmony with federal law and the practice of other authoritative institutions, such as the National Archives.

The present law in Connecticut stifles legitimate and valuable historical research. It was enacted under murky circumstances in the 2011 end-of-session rush, when sweeping language, which had failed to make it out of this committee, was resurrected and tucked into a 98-section public health bill.

The state Department of Mental Health and Addiction Services had argued for the law on the grounds that descendants might be embarrassed by the revelation that a long-dead ancestor was a mental-health patient. But that same department, in a far more enlightened action, now makes an annual practice of reading aloud and in public the names of patients who died at Connecticut Valley Hospital and whose remains were once relegated to anonymous, numbered graves on the hospital grounds. The names have also been placed on a marker in the graveyard.

DMHAS's push for the present law was prompted by a particularly worthy and relevant research project, CCSU historian Matthew Warshauer's efforts to examine the treatment of "Soldier's Heart," the Civil War-era term for what we now call Post-Traumatic Stress Syndrome. This research would be hobbled now, but as the state librarian points out, when FOI exemptions are created, "there is often little consideration given to the future historical importance of accessing the record."

We believe Mr. Wiggin's proposal takes a big step toward addressing this problem. It would preserve the legitimate privacy interests of individuals during their lifetimes and

for a long period after death. In the case of medical records, that period would be 50 years, the same limitation contained in the federal HIPAA statute. At the same time, it would allow researchers to mine the historical record for that understanding of the past that enriches and informs our present.

This bill presents an opportunity to correct a legislative overreaction with a thoughtful law that serves both privacy and history. We urge the legislature to enact it.